

## **PLANNING COMMISSION MINUTES**

**June 9, 1999**

**CALL TO ORDER:** Chairman Maks called the meeting to order at 7:03 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

**ROLL CALL:** Present were Chairman Dan Maks; Planning Commissioners Charles Heckman, Eric Johansen, Sharon Dunham, and Vlad Voytilla. Tom Wolch arrived at 7:10 p.m. Don Kirby was excused.

Staff was represented by Policy Manager Alwin Turiel, Associate Planner Veronica Smith, Assistant Planner Colin Cooper, City Transportation Engineer Randy Wooley, Associate Planner Margaret Middleton, Assistant City Attorney Ted Naemura, and Recording Secretary Gerry Bowles.

### **OLD BUSINESS**

#### **Continuance**

### **PUBLIC HEARINGS**

Chairman Maks opened the public hearing and read the format for the meeting. There were no disqualifications of Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items.

#### **A. CPA 99002/RZ 990002 – BEAVER CREEK APARTMENTS** *(Continued from March 31, 1999)*

This proposal is to reassign the County Residential-25 units per acre (R-25) designation to City Central Business District Comprehensive Plan Map designation and City Regional Center-Transit Oriented (RC-TO) Zoning District. This site is located along the south side of Center Street and east of Lombard Avenue. The site is within the County R-25 designation and is approximately 4.3 acres in size. Tax Lots 200 and 300; Map 1S1-10CC.

Ms. Smith reviewed the staff report and memorandum, correcting “Regional Center Transit Orientated” to read “Regional Center Transit Oriented”. The proposal meets the

intent of Metro's Urban Growth Management Functional Plan, Title 1 Design Type Regional Center. The criteria is found on Exhibit B and the map is contained in Appendix B.

There was no public testimony. The public portion of the hearing was closed.

Commissioner Heckman noted that this is a housekeeping item. There were no additional comments from other Commissioners.

Commissioner Wolch arrived at the meeting at this time.

Commissioner Johansen MOVED and Commissioner Heckman SECONDED a motion for approval of CPA 99002 Beaver Creek Apartments to the designation of Central Beaverton District based upon the facts and findings contained in the staff report dated March 31, 1999, as shown on the corresponding map in Appendix B attached to the same staff report. Approval of CPA 99002 shall become effective at such time as the text amendment creating the Regional Center – Transit Oriented District is in effect. The question was called and the motion CARRIED 5-1: Maks, Johansen, Dunham, Heckman, and Voytilla voting AYE; Wolch abstaining.

Commissioner Johansen MOVED and Commissioner Heckman SECONDED a motion for approval of RZ 990002 Beaver Creek Apartments to the designation of Regional Center – Transit Oriented based on the facts and findings contained in the staff report dated March 31, 1999, as shown on the corresponding map in Appendix B of the same staff report. Approval of RZ 990002 shall become effective at such time as the Zoning Map Amendment creating the Regional Center – Transit Oriented is in effect. The question was called and the motion CARRIED 5-1: Maks, Johansen, Dunham, Heckman, and Voytilla voting AYE; Wolch abstaining.

## **NEW BUSINESS**

### **A. SV 980001 – FIRST BAPTIST STREET VACATION**

Request to vacate a public right-of-way between properties owned by the First Baptist Church of Beaverton at 5755 SW Erickson Avenue. The applicant requests to vacate the unnamed roadway of approximately 540 lineal feet by a width of 25 feet. The site is within the R-7 zone. The site is located on the west side of SW Erickson, north of SW Allen Boulevard, and south of SW Berthold, and is approximately 4.03 acres in size. Map 1S1-16DC; Tax Lots 4700, 4800, and 4803.

All the Commissioners indicated they had visited the site.

Mr. Cooper presented the staff report. He reviewed the criteria and noted that staff finds that the proposed vacation of the public right-of-way is not in the public's best interest.

Chairman Maks said he was surprised to see information included in the staff report with regard to a Conditional Use Permit (CUP). Mr. Cooper responded that the applicant's representative had interwoven language that they used in an application for a Conditional Use Permit that has been applied for. The applicant believes that the CUP may play a role in persuading the Commission that the street vacation is in the public's best interest. Staff has not addressed the CUP with respect to this application. Chairman Maks expressed that a CUP, or any portion of such an application, is not before the Commission at this time for review.

Commissioner Heckman asked Mr. Cooper how the City would obtain the right-of-way to connect this "paper" street to Bonnie Brae. Mr. Cooper said the right-of-way would be obtained either through an exaction based on the possible development of the site to the west and/or the actual City purchase of the land. Commissioner Heckman noted that the staff report states that because of the dimensions, it exceeds the Metro requirement for street connectivity. It also states that this is the only possible street. He asked if anyone considered whether Larson Street could be utilized instead of the right-of-way under discussion. Mr. Cooper said staff did consider this option. The dimension of the block length would be in conflict is actually the City's current Development Code. In addition, it would be in conflict with Metro's Title 6. With consideration of Larson Street, there is a multi-family complex at the western terminus of Larson and it does not appear that the likelihood of redevelopment of that site would allow that opportunity for a connection between Larson and Bonnie Brae to occur. Commissioner Heckman questioned a possible timeframe in which the right-of-way connectivity to Bonnie Brae might take place. Mr. Cooper said no discussion has taken place. It may possibly be a long time.

Commissioner Wolch asked how much the staff recommendation for denial was weigh by the City Comprehensive Plan versus Metro Title 6. Mr. Cooper said the decision was primarily based on the City's Comprehensive Plan. Commissioner Wolch confirmed that the City is required to meet the Metro Title 6 criteria. Mr. Cooper noted that the Code needs to address that within a certain period of time overall but it has not yet been fully folded into the City Code. We are in the process of doing that as the City adopts certain multiple use or regional center zones. Chairman Maks added that any legislative changes are now supposed to follow the Regional Framework Plan at the present time. If this is currently identified as a possible future road connection on the City's Comprehensive Plan, in the TSP, or on the Street Connectivity Maps, and were to be changed, it would be a legislative change and the City must follow the Regional Framework Plan. Mr. Cooper concurred noting that the proposed vacation must meet Metro's Title 6 now.

SPENCER VAIL, Planning Consultant, 4505 NE 24<sup>th</sup> Avenue, Portland 97211, said they have reviewed the staff report. He introduced the Pastor of the church, Norm Langston, to discuss the history of the church and its contributions to the community.

PASTOR NORM LANGSTON, 6855 SW Larkspur Place, Beaverton 97008, said the church has existed since 1955 in Beaverton and has been in its current location since 1960. Erickson was the City limits at that time and that is how the right-of-way came about. It was part of the negotiations to hook up to the sewer. At that time it was intended to be a parallel street to Larson Street. In subsequent years, the church purchased all properties on either side of the right-of-way. The church has been a service to the community for a long period of time. In the past when Good Neighbor Days was held at Schiffler Park, the main parking during all those years was on the church property. Beyond that, the church has basically provided a parking lot closest to the play fields of the park. They have been providing a vital service to the City park for a number of years without requesting any reimbursement. Their buildings are overwhelmed with the amount of activities they have. They have an addition to their congregation as well as the Korean Bible Church and the Hispanic congregation. They have various other community and support groups that meet in the church facilities. These are all substantial services they have provided to the community.

Mr. Vail emphasized that beyond the parking lot, the right-of-way is basically a paper street to the west property line. The church owns the property on both sides of the right-of-way. The church is seeking to vacate the street in order to accomplish expansion of the church facility. The paper street would create some design issues with regard to setback requirements. They held a neighborhood meeting and obtained the neighbors' support. Nobody uses the street. It is not there for general public use other than the portion that enters the church parking lot. In the traffic report, they attempted to address the issue of the practicality of that street connecting to Bonnie Brae. The City staff does not know at this time what right-of-way length they may want or when they may need it. It is desired that this be a multi-modal type connection but someone will have to pay to improve the street. The question remains as to who might benefit from such connection. The City will not gain any additional access to the park and the church will not benefit from having their property divided by a street. The staff report indicated that with the street vacation, there would be no possibility for a future street connection and there is a strong opportunity to connect the right-of-way now. He disagrees with this in that the church does not need the street dividing its site in half. If the church were to relocate, this is a four-acre site that is zoned residential. Development of a subdivision would provide the opportunity to connect the street, placing lots on both sides of it. It would not make sense now to have the church on one side of the road and the playground on the other side. The traffic engineer's analysis is if the street goes in, it will not serve any great public benefit. Public benefit would be derived from vacating the street and allowing the applicant to return with a development plan to be considered on its own merit. This would give them design latitude to not have to consider setbacks to street. At the time an expansion of the church was approved in 1980, there was no requirement for the church to dedicate additional property. Since that time, the City has acquired property that fronts on Bonnie Brae to provide a connection to Schiffler Park that provides some additional parking that was not there when the church was first expanded and the streets were there. There is more

opportunity to gain access to Schiffler Park than there was in the past as a result of this street. Mr. Vail discussed the grade difference between Schiffler Park and the playground, particularly in the northwest corner. That grade difference would have to be overcome as a result of a street expansion. The street would serve no benefit. The City has adequate access to Schiffler Park. The church has in the past and will continue to allow the public to use its parking lot for access to the park.

HOWARD STEIN, Stein Engineering, 8196 SW Hall Boulevard, Suite 308, Beaverton 97008, Traffic Engineer, stated that it was evident that very few vehicles use the east/west routes in this area. The area is built out and anyone wanting to use those routes are doing so now. The vacation of this road is appropriate because it does not serve any purpose. One of the main goals of the City with this right-of-way is to provide a multi-modal environment and a street. This will be met. The parking lot is currently used to access the park and the pedestrians are allowed to pass through the area. Even if Bonnie Brae did extend through this site, there is no place for it to extend further to the east. Anyone who wants to travel this route is already doing so on Berthold or on Allen. There is no benefit to the area by having this connection. In response to an earlier question from Commissioner Heckman with regard to the timing, Mr. Bernstein said the timing of the improvement would very possibly be when every other improvement in the City is completed and the City has money they wish to spend in some manner that will not really serve the public welfare.

Mr. Vail explained that he submitted information regarding a CUP only for the purpose of indicating to the Commission that through that process it is possible to add conditions that would ensure that parking would remain and pedestrian/bicycle access would be allowed through the site as conditions of future approval. This would indicate that there are other options to attain the objectives even if the street is vacated.

Pastor Langston cited a transportation objective in the staff report with regard to maintaining the quality of life of the area through proper location and design of transportation facilities. The quality of life in the area, as judged by the neighborhood association and the neighbors who signed their petition, as well as the Tualatin Hills Park and Recreation District, would suggest that the quality of life is best enhanced through the street vacation. There is a safety issue involved if the church property is divided by a road which would result in people having to park on one side of the street and accessing the church on the other side.

Commissioner Heckman asked who owns the lot west of the right of way. Mr. Vail said Mr. Skoro. Commissioner Heckman asked if it would be possible to do an expansion with the right-of-way in tact. Mr. Vail said no because it would present some design problems. Chairman Maks asked staff if a church seeking a CUP to expand within a residential zone can apply under the PUD (Planned Unit Development) process. Mr. Cooper said yes if they meet the site location criteria for a PUD. Chairman Maks asked if

this would allow flexibility with regard to setbacks. Mr. Cooper responded that generally this applies to the interior of the property if there are multiple lots. The exterior property lines would generally be the setbacks applicable to the zone. Chairman Maks noted that within a PUD, an applicant can request a reduction without a variance.

Commissioner Heckman questioned the bike lane shown on the map at the southern property line. Mr. Vail said this is property owned by the City acquired through some prior land use action. He suspects that some time in the future it may be extended north to the park. This property was acquired prior to the time the City acquired the direct access from Bonnie Brae into the park. In response to a further question, Mr. Vail noted that if Mr. Skoro had developed his property, it would have eliminated the potential for the paper street to connect to Bonnie Brae.

Chairman Maks asked if the church has gone through any expansion since 1980 to which Pastor Langston responded no. Chairman Maks questioned the number of parishioners, noting that in 1980 the figure given for membership under the CUP was approximately 500 and it is now stated that there are approximately 900. Pastor Langston explained that 900 is the membership and 500 is the actual number in attendance. On a given Sunday, there will be about 500 people attending a variety of church activities. Chairman Maks noted that the congregation has grown substantially. He asked if the parking overflows into the street. Pastor Langston said it is not unusual for the parking to overflow onto the street on Sundays. Chairman Maks requested clarification of information contained in the traffic analysis with regard to vehicular trips. Mr. Stein noted that the weekday trip count of 25 does not apply to Wednesdays. Chairman Maks asked if there are any other groups of the size that meets on Wednesdays. Pastor Langston answered that Wednesdays and Sundays are their peak usage days. There are other community groups that meet during the week but are not of any significant size. Mr. Stein added that some of the study groups meet at the members' homes.

Commissioner Voytilla questioned the small structure shown on the north side of the access. Mr. Vail said it is parsonage for the Spanish pastor and his family. Commissioner Voytilla asked if consideration was given to providing a road with curves that would better be incorporated into the future expansion plans, noting that the road as currently shown is very straight. Mr. Vail said the street is already there in a straight line. This is not a dedication or re-dedication proposal. The proposal simply is to vacate this right-of-way. After action is taken on this proposal, they can proceed with their plans for a CUP for expansion. They need to know that the street is not there so they have some design latitude. The City is interested in providing connectivity by or through the site for at least pedestrian and bicycles at some time in the future. Commissioner Voytilla asked if they had looked at other options other than street vacation. Mr. Vail said no. They had met with the City in an attempt to link the street vacation and the CUP in order that the Commission could see the effect of one decision on another. The applications originally started out together but it was later deemed that the street vacation would fall under the

120-day rule. Commissioner Voytilla asked if there are any utilities located in this right-of-way. Mr. Vail indicated no. Commissioner Voytilla asked Mr. Vail if he has any response to the concerns raised in the Technical and Advisory notes. Mr. Vail expressed that staff's main charge is to review an application in relation to existing policies and directives of the decision-making body. He is asking that the Commission find some flexibility to make some exceptions to the policy rather than adhering to a strict interpretation. Having visited the site, the Commissioners may find that all the policies may not be applicable in this situation, i.e. public need and public benefit, asking who will gain from a street in this location. Mr. Stein added that no matter how the right-of-way extends to the west, the majority of the parking for the church with the expansion will have to be located on the other side of the street. Major safety and quality of life concerns are driving this request for a street vacation.

Commissioner Wolch noted that one of the reasons for connectivity is for the purpose of emergency response. In the Facilities Review, he noted that Tualatin Valley Fire District did not respond and asked if they have had any other communications in this regard. Mr. Stein said he has not heard anything. There are multiple routes to get to this site. If there needs to be an emergency access through the site, this can be accommodated.

Chairman Maks asked if the major concern is the setbacks or public safety. Mr. Vail said it is a combination. The City has not said how much more right-of-way they want beyond the 25 feet. The 25-feet is not adequate for a street standard and does not provide for multi-modal transportation. The lines that are already there dictate setbacks. Pastor Langston reiterated that both setbacks and public safety are significant concerns to the congregation. Long range development of the property is much more difficult to achieve with the street, either in its current state or improved. Either way, they are not able to utilize the land. They are also very concerned about safety. Putting in a street near the park will increase the hazard to children.

RECESS: 8:00 p.m.

RECONVENE: 8:08 p.m.

JERRY EAKER, EDA Architects, 17545 SW Rigert Road, Beaverton 97007, architect, said they originally tried to bring forward both issues, the CUP and the street vacation at the same time. Although the CUP cannot be addressed at this time, the topic of setbacks has been brought up. He has designed over 400 churches and has found that invariably more space is needed than what can be accommodated under the current scenario. It would essentially become a railroad track running the depth of the property. This prompts the basic issue for the need for the street vacation. They need the entire piece of property in order to develop for their needs now and in the future. The street vacation itself would not be as significant if they were able to move it somewhere else on the site but where it is located, it is a severe handicap. The street vacation is needed in order to properly accomplish what he has been asked to do.

LARRY BROWN, 12850 Scout Drive, Beaverton 97008, said that for some people, this is a technical issue, but for him, it is a highly emotional issue. He has been a member of this church since 1964 and has seen the church struggle and grow and start missions in other communities that are now able to function independently. He remembers a time when the Beaverton police were needed regularly in this neighborhood. It is now a rare occurrence. If you were to talk to the Police Department about the influence of the First Baptist Church on the community and on people's lives, you would understand their desire to continue their development. The street vacation is absolutely essential to that. It is not a policy issue. It is an issue of influencing people's lives and ministering. It is now required that multiple groups meet off campus because of lack of space. They are not able to minister as effectively when groups have to meet off campus. There is an element of human consideration in a dimension of impact on the community that is not going to be told by looking at setbacks and master plans. He asked that the Commissioners look beyond the rules and regulations to determine what kind of community they want and ask themselves if this church is a constructive influence addressing the quality of life in the community or is a liability. That will provide good guidance on favoring the vacation of this street and facilitate the church's continued development and growth.

Commissioner Heckman asked about the groups that must meet off site because there is not adequate space. Mr. Brown said there are three different groups that meet off site. He asked that the Pastor address this issue further.

#### Rebuttal Testimony

Pastor Langston said that about 40 college students and other students meet off site on Sundays due to lack of available space at the church. There are currently five groups that meet in the Worship Center between the two worship services. Commissioner Heckman asked if it is necessary for any group to meet off site during the week because of lack of space to which Pastor Langston responded no.

Mr. Vail asked that the Commission look at the dimensions of the property on the south. They need the street vacation to provide the design options that are necessary.

Commissioner Johansen said one of the comments was that it is not so much the fact that the road is there but rather where it is located. He asked staff if the Commission has the authority, under a CUP review, to require a street through the site. Mr. Cooper said the dedication of right-of-way, in order to provide safe and efficient circulation, can include public right-of-way dedication. Full street dedication becomes more difficult under a single parcel but it can be required.

Commissioner Voytilla asked staff what the intended width of improvement would be if a street were to be placed and whether additional right-of-way is necessary. Mr. Wooley



said there are some options under the current Code for street widths. The most typical would be the 28-foot wide street in a 46-foot right-of-way.

Commissioner Wolch asked if it is normal for the Tualatin Valley Fire Department not to comment on this type of proposal. Mr. Cooper said at this point, they are not actively participating in the Facilities Review Committee process due to their staffing levels. The lack of comment is not indicative of anything. Commissioner Voytilla asked if this also applies to the Police Department. Mr. Cooper said no. Staff actively seeks their comment; however, in this case no comment was received.

The public portion of the hearing was closed.

Commissioner Johansen commented that it is clear that the church is providing a good service, is a good neighbor, and the people feel strongly about the issue. With respect to the street vacation itself, it strikes him that the benefits of a future connection are not real strong. The area is already largely developed. The levels of service at the nearby intersections is better than most in the City. It does not appear that there will be much additional development in the vicinity of the church that would warrant a street connection for the purpose of carrying traffic. There is the ability, in a future development application, to condition a connection to the west possibly in the form of a pedestrian/bicycle access. The Commission can also address such a connection with regard to vehicular traffic. The reasons not to support the application are not real persuasive to the public who have a deep personal interest in the issue. These include the need for connectivity in the City. Throughout the City, connections have not been made in some neighborhoods and as a result, certain streets that are connected must bear a disproportionate share of traffic responsibility. The Planning Commission must, at times, take a larger view of what is in the overall public good. Connectivity that would be provided by maintaining the street is something that the Planning Commission should consider. The Commission must also consider the Development Code. The Code is developed for a reason. Connectivity is important and the Commission must be cognizant of what the Code requires. His is not swayed by the fact that parking would be located across the street from the church. This presently occurs in many parts of the City. Based on the information and testimony presented, he does not feel there is sufficient reason to deny the application, given the limited benefits that are available.

Commissioner Wolch said it is clear from the testimony that this paper street has a severe impact on the church and the church has been a benefit to the community for a number of years. Many of the arguments are persuasive. As Commissioner Johansen stated and the traffic report indicates, there is not a big benefit to providing this connection. The Fire Department has not indicated a problem with the absence of a street connection. It does concern him although that they are not involved. Some issues were brought up about the practicality of the facility and the church has been there since 1955 without a connection. This may be a good indication that 40 years from today we will still not have a connection.

The applicant did a good job making his arguments and he found them persuasive. However, he is concerned about the Planning Commission not following the Metro Functional Plan or Article 6. There may also be some possibility of compromise in making some kind of pedestrian/bicycle connection only. This has been done in past cases but at those times, the Functional Plan or Article 6 were not in effect. He will recommend denial with the stipulation that if the vacation is approved, it must come from higher powers than the Commission.

Commissioner Dunham said she noticed lack of connectivity immediately when she had visited the park in the past. However, she sees the minimal traffic in that area as being a factor and the levels of service at the intersections are excellent. There is no great benefit to connecting the street. It has not been connected during all these years. Although the CUP is not under discussion at this time, she wonders whether a continuance of this matter to review it in conjunction with the planned CUP has been contemplated. Reiterating Commissioner Wolch's comments, Metro, in addition to the Development Code, provide direction for the Commission. She noted that on Page 2 of the Technical and Advisory Notes, it states that if a block were to exceed standards, then at a minimum, a bicycle and pedestrian accessway would be required. She would be more in favor of the bicycle/pedestrian access since there is no demonstrated need for the street. She would support approval of the street vacation.

Chairman Maks said the church is a constructive influence and an asset to the community. He would like to see the church expand. It would have been easier to package the two proposals together. He understands the purpose of the vacation to provide options for the design and alleviate safety concerns, although limited, as expressed by Commissioner Johansen. There may be other options within the Code to address the design options and if packaged together, might provide the possibility to address those. No one ever wants a street. The City has traffic problems because there are not enough streets. Because there are not enough streets, people making local trips use major collectors and arterials. That is why the collectors and arterials are fully booked. Because of this, we have cut through traffic. People get fed up with the crowded arterials and collectors so they drive through residential neighborhoods because there is a lack of connectivity in this City. The only way to address this is to stick to the Comprehensive Plan and work towards connectivity. This street in itself will not solve the problem and there is no single answer but every street and every route, whether it be pedestrian, bicycle, or vehicular, must share the load. This application goes against our existing street standard for block length. It may also be in conflict with Title 6 of the Metro Regional Framework Plan. Staff did a good job of identifying the issues, the transportation objectives 6.2.d, 6.3.3, and 6.3.4. They all basically address connectivity, better traffic movement, and locating streets so there are no driveways on collectors. He believes in the process regardless of the outcome and he cannot make a decision on a land use application in front of him based on a future application that might come before the Commission. This is a church that, through the kindness of the parishioners and the pastor, have provided a pedestrian access to the

park. Although these issues may be addressed in a future application, he cannot base this land use decision on something that will be coming forward in the future. He support's staff's recommendation.

Commissioner Heckman referred to the finding on Page 9 of the staff report that states that the proposed vacation of the public right-of-way is not in the public's best interest. His comment to that statement is that the public is best served by actions favorable to all residents with cost benefits being a crucial part of that service. In this case, the future cost cannot be equated with the best interest of all the public. Looking at the site map, the distance between Berthold and Allen is quite a distance but so is the distance between Allen and 21<sup>st</sup>. This is not an anomaly. This situation exists in many other places throughout the City. This, in his opinion is a unique situation. If this were a direct connection, merely separated by one lot or 100 feet, he would not have any problem. In this case, the future connection may be very difficult to achieve. The transportation issues, however, are very exacting. They are designed for the betterment of the City as a whole. This is a 25-foot right-of-way. There is no way of knowing when this could come about if it ever does. If it is 20 years away, Metro's Plan may be different by that time. The City's Comprehensive Plan may be changed by that time. A potential street bisecting the church and the playground would be asking for accidents. He was swayed by what the traffic engineer stated on Page 5 of the traffic report with regard to street vacation and connectivity, recognizing that there has to be exceptions to all rules. In this particular instance, he supports the application for the street vacation.

Commissioner Voytilla said he agrees with many comments already expressed. The Commission has had the opportunity to understand a unique problem associated with this request. The church has been and will continue to be a very good resource in the community. The staff has identified specific rules that the Commission must adhere to. Looking at the map, there are most likely other precedents that there are other large blocks in the vicinity. However this application involves an established resource, an extended public street, a vacant parcel directly east of that street's terminus, and a partial right-of-way that is already dedicated within the church's property. This is a good opportunity to not simply deny the proposal but rather to look at some other options. There is flexibility that can be utilized. He felt that the church and its consultants could work with staff to consider other options. If the applicant were to request a continuance, he would support it in order to consider the options. Otherwise, with the rules the Commission must adhere to from the City and from Metro, he finds he would have to support staff recommendation.

Commissioner Johansen MOVED and Commissioner Heckman SECONDED a motion for approval of SV 980001 First Baptist Street Vacation based on the facts and findings contained in the staff report dated June 9, 1999, and presented to the Commission tonight with the specific finding that the proposed vacation of the public right-of-way is in the public's best interest based on the testimony presented tonight.

Discussion ensued on the wording of the motion in that the staff report recommended denial and the motion is basing its recommendation of approval on the facts and findings contained in the staff report. Mr. Naemura noted that this wording is contradictory.

A finding for approval would only be based on the testimony presented tonight. The motion was withdrawn by the Secoder and the motion maker in order to formulate a new motion.

Commissioner Johansen MOVED and Commissioner Heckman SECONDED a motion for approval of SV 980001 First Baptist Street Vacation based on the facts and findings presented in the public testimony this evening with the specific finding that the proposed vacation is in the public's best interest.

Chairman Maks thanked the Commissioners for their attention to detail in this matter. This is a tough issue and the reasoning behind his support of staff is that the City serves all the community, present and future. Commissioner Johansen said he agrees. The Commission must look at the overall community need. The difference in this case is the fact that this is a substantially developed area. The benefits of the street, in this particular case, are not worth the cost.

The question was called and the motion DIED due to a 3-3 TIE vote: Heckman, Dunham, and Johansen voting AYE; Voytilla, Wolch, and Maks voting NAY.

Commissioner Wolch MOVED for denial of SV 980001 First Baptist Street Vacation based on the facts and findings contained in the staff report dated June 9, 1999. The proposed vacation is not in the public's best interest. The motion DIED for lack of a second.

Mr. Vail requested that this item be continued in order to be heard at the same time as the CUP to allow the Commission to review the street vacation coupled with the CUP request in order to see how some of the issues raised tonight might be resolved. He waived the 120-day rule for a period not to exceed 90 days.

Chairman Maks asked for a vote from the Commissioners on the request by the applicant for a continuance. A vote of 5-1 resulted: Maks, Voytilla, Dunham, Heckman, and Johansen voting AYE; Wolch voting NAY.

In order to avoid the need to renote, Mr. Cooper suggested that the date of August 11 be established as the date for continuance.

Commissioner Johansen MOVED and Commissioner Heckman SECONDED a motion to continue SV 980001 First Baptist Street Vacation until August 11, 1999, for the purpose of consolidation of this application with a future land use application.

Chairman Maks, at the advice of the City Attorney, requested that the Commissioners withdraw the motion as stated and reword the motion to simply continue the item. The seconder and the motion maker withdrew the motion.

Commissioner Johansen MOVED and Commissioner Heckman SECONDED a motion to continue SV 980001 First Baptist Street Vacation until August 11, 1999. The question was called and the motion CARRIED unanimously.

RECESS: 9:08 p.m.

RECONVENE: 9:13 p.m.

## **WORK SESSION**

### **ACCESS REPORT REQUIREMENTS**

Discussion of draft traffic impact analysis report (Access Report) requirements.

Ms. Middleton and Mr. Wooley introduced the item and requested comments and questions from the Commissioners.

#### **Questions and Comments from Commissioner Dunham**

Attachment A – Is there a desire to include a provision for cumulative threshold numbers? Do we want to do something similar to Hillsboro? Ms. Middleton said right now we have the cumulative analysis that may be required per Attachment A. It is required in the working draft in Attachment D that a cumulative analysis be required. Commissioner Dunham cited areas in the report where one location specifies that a cumulative analysis *may* be required and in another location, it states *shall* be required. Ms. Middleton responded that the working draft states *may* and in the working draft the word was changed to *shall* to reflect the Commission's request to codify the language. Staff felt it was appropriate to require the accumulative analysis.

Has staff considered the inclusion of a completeness checklist similar to other jurisdictions? Ms. Middleton said a checklist may be beneficial for a developer and provide a quick review for staff to determine whether proper information has been submitted. Right now we have basic requirements and she did not see the need for a checklist at this time. It would not be difficult to develop one if the Commission so desired. Commissioner Dunham felt it might be helpful but this should be determined by the staff involved in this process.

Attachment A – first paragraph – define non-single family development in single-family residential areas. Mr. Wooley explained that this would refer to commercial developments having access on residential side streets. There is already similar language in the TSP amendments that would trigger special analysis requirements.

Attachment A – Area to be considered in the Report – define primary. Mr. Wooley responded that in most cases, it would be all points of access. Sometimes there is a minor access for loading or fire access not open to the public. Commissioner Dunham questioned whether the language should read “primary” or “all”. She cited as an example the new high school with accesses on 130<sup>th</sup> and 125<sup>th</sup> and whether or not using the word “all” would trigger a better study. Mr. Wooley agreed that a revision may be beneficial stating that possibly defining “primary” would also serve that purpose.

Attachment D – Page 5-B.1.b – Suggested that the definition of through trips be moved to B to define through trips at the beginning of the section.

Attachment D – Page 4-4.b – questioned the inclusion of the words “if required” as to what would warrant this to be done. Ms. Middleton said she would review this language for a possible error.

Attachment D – Page 4-4.c – Last sentence – is the use of the word “should” too loose? Ms. Middleton said it can be changed to “shall”.

Attachment E – Commissioner Dunham felt that delaying application completeness and delaying the start of the 120-day clock would be a disadvantage. Mr. Naemura said this would be a development that is going to happen. Time, value, and money exists on the part of the proponent of the proposals. The City has some interest in seeing the parties get to a hearing as efficiently as possible. He agrees that looking at it in another way, the delay in starting the clock on an application can be advantageous to the City because they have maximum protection.

Define concurrency – Ms. Middleton said it is providing the improvements at the time of development.

#### Questions and Comments from Commissioner Heckman

Attachment A – first page - last paragraph – define frontage road. Mr. Wooley said it is a road that fronts the property or the abutting road. This language has been revised in the proposed Code language.

Attachment A – Page 2 – Safety Considerations – third paragraph – define channelization. Mr. Wooley said this is usually traffic islands or striping to channel the traffic to separate lanes.

Attachment B – Page 89 – Mitigation Measures - Who will ensure that needed improvements are made? Ms. Middleton said prior to approval of applications, the conditions must be met and this would include mitigation. Commissioner Heckman noted

that this is an ongoing concern because there are many cases in which the conditions of approval are not met.

Attachment D – General Provisions – No. 1 – why is it necessary to include language referring to ODOT and Washington County facilities. Ms. Middleton responded that some of our facilities are County or ODOT maintained. We need to acknowledge that within the process they are designed within the standards and requirements of those agencies. Commissioner Heckman asked who has the control over the design in the case of ODOT or Washington County facilities. Mr. Wooley responded that the State and County have final approval over the design of their facilities but in the event of development, it is the City imposing the conditions. The State and County do not have the authority to impose exaction or conditions on development.

Commissioner Heckman excused himself from the meeting at this time.

#### Questions and Comments from Chairman Maks

Attachment B – Page 88 – Study Area – Likes the statement that “...the analysis should include all critical segments...” If this is not already included in the document, he would recommend that it be added.

He wants to see a.m. peak and p.m. peak hour traffic counts. Depending on the roadway, a.m. peak hour traffic is sometimes greater than in the evening hours, citing examples of Greenway/Hall and Walker/158<sup>th</sup>. He would also like the 10% reduced to 5% or close to a level of service change. It is possible to have cumulative applications that are approved that do not affect an intersection 10% but following development of the various applications, the intersection fails.

Attachment D – Page 1 – No. 5 – Asked if a City Engineer or designee’s decision to waive the requirement for an Access Report can be appealed. Mr. Wooley responded that there is no formal appeal process. When the information is presented at a hearing, the hearing body has the authority to ask for more information.

Attachment D – Page 2 – No. 1 – would like the 500 lowered to 400.

Page 3 –2.d – The last sentence refers to phases of developments that have building permits issued and on the next page, it refers to cumulative analysis scenario from planned or proposed developments. Wouldn’t the City want approved proposals to be considered in the added traffic? Mr. Wooley said this is probably done in practice. The argument against would be that not everything that is approved actually gets built. Chairman Maks said he would still prefer to base it on approved developments.

#### Questions and Comments from Commissioner Johansen

His feeling is that the standards for requiring an Access Report should be as stringent as any other jurisdictions in the region. This will be a benefit to the citizens. He would like the

ability on an application to know the level of service on any intersection in the vicinity of the proposal. Can information from traffic studies performed for other applications in the vicinity be presented to the Commission and be relied upon for making a decision? Chairman Maks said this cannot be done. Traffic engineers do not always agree. The Commission cannot base their decision on information not presented by the applicant and it is possible that the applicant might dispute the information if he had done his own study. Mr. Naemura added that there would be a problem with regard to evidence and where it is coming from and what is considered substantial, most recent, outdated, and what the Commission has a right to consider.

He supports Chairman Maks' comment with regard to a.m. and p.m. peak hour traffic.

He does not believe that the TIF fees should be waived for safety issues on or near the site because it would take the money away from capacity improvements.

Attachment D – Page 1 – No. 5 – If impacts are known, the Access Report may be waived. If there are intersections operating at level of service F and an application is received that would add traffic to the intersection, this clause would provide no basis on which the Commission can make a finding that additional traffic imposes a burden on the intersection. Mr. Wooley said this waiver has been used in the case of a rezone or Comprehensive Plan Amendment where a simple review can indicate that the impacts of one zone is similar to another. In these cases, the impacts are readily analyzed and are not substantial. Commissioner Johansen felt that the requirements should be more stringent in the cases where it is known that there will be an increase in traffic generation. Mr. Wooley suggested language be added to indicate that this would be done only in cases where it is known that the traffic volumes will not be substantially increased.

Attachment D – Page 2 – He supports the reduction of 500 to 400 and possibly even 200. We should do more than we currently do and should be as stringent as any other region.

Attachment D – Page 3.f – The ultimate configuration may not happen with a particular development and questions why this was included. This would require the Commission to grant approval on a future improvement that may not happen in conjunction with the development. Commissioner Voytilla presented an example in Washington County where a traffic study warranted a left turn lane. The improvements were completed within available right-of-way. However, for the intersecting street, by doing that to the direction opposite, it became apparent after the fact that there was not enough visibility. If that knowledge had been mapped out as a requirement, the problem could have been solved all at once. Perhaps the wording should be more similar to that for mitigation measures. Mr. Wooley suggested that the language should reflect the requirement that there be site distance at the time the development is completed.



Attachment D – Page 42.h – he would like to see better information regarding the availability of transit service. He distributed a handout that included information that would help him better judge the adequacy of the service. It asked such questions as what line serves the development, how close it is, what is the access, when the service runs, and how frequent is the service.

He agrees with Chairman Maks with regard to 5% versus 10%.

#### Questions and Comments from Commissioner Voytilla

Attachment A – Page 1 – first paragraph – what about facilities that do not fall within these guidelines, i.e. a church where the neighborhood is impacted by weekend activities? Under this language, they would not have to complete an Access Report. Mr. Wooley responded that the City Engineer can require a report under other situations. Commissioner Voytilla asked if the ITE Manual includes information in this respect. Mr. Wooley said the ITE Manual typically covers weekday a.m. and p.m. peaks, Saturdays, and sometimes Sunday. Commissioner Voytilla wondered if adding references from the ITE Manual would add stability to current discretionary decisions.

Attachment A – Access Report Requirements – Asked staff to consider whether mitigation of impacts would also be an objective. Is there a distinction between a registered Traffic Engineer and a registered Civil Engineer? Mr. Wooley replied that in the State of Oregon, there is a separate registration for Traffic Engineer. Civil Engineers can also practice as a Traffic Engineer. Commissioner Voytilla expressed concern with an engineer presenting information that is not within his field of expertise. Mr. Wooley stated that generally you rely on the ethics of the person doing the work to only practice in their discipline. If they do not, they can be disciplined by the Board. In the last sentence of that section, it states “Traffic Engineer” and Commissioner Voytilla asked who this is intended to be. Mr. Wooley said it is the City Traffic Engineer. It was clarified that Attachment A is the current procedure and Attachment D is the proposed document, if the procedure is codified.

Would it be appropriate to have a definition section? Ms. Middleton said they have added two definitions from the text to Section 90 as shown on Page 6. Commissioner Voytilla requested that any unique language be added to the definitions.

Attachment D – Page 1-5A – Is this a pre-analysis conference to have the applicant’s consultants discuss the proposal? Mr. Wooley said this is sometimes done over the telephone. Commissioner Voytilla stressed the need for an applicant to know well in advance what is expected of him.

Is the Traffic Access Report actually a Traffic Impact Report or a Circulation Impact and should the terminology be changed to better reflect what is being done? Ms. Middleton

said it has been historically called an Access Report. Mr. Wooley said they may want to consider changing it because he has encountered misunderstanding of this term.

Attachment D – Page 3-2.c – If the data is more than 12 months old, will new data be required? Mr. Wooley said based on the current level of activity, it would require new data. In earlier years when there was not a large amount of change, the older data would have been adequate.

With regard to cumulative projects, he too would like it tied to approved projects rather than those for which building permits have been issued. It should include those projects approved within a 2-year time period.

Page 4 – 2-h – would like this information presented earlier in the document to make the applicant aware that this information will need to be incorporated.

Page 4 – No. 4 – requested clarification that these are minimums and the City may require more. Ms. Middleton suggested adding language “shall include but not be limited to”.

With regard to concurrency, there should be a method by which the cumulative impacts are looked at perhaps with the threshold of the next level of a project. This prevents the necessity of tearing out recent improvements to meet the requirements of a subsequent development.

Chairman Maks suggested that the statement in Attachment B which reads “Traffic is broadly defined as circulation of people and goods...” on Page 87 be placed in the purpose statement to set the tone that the City is looking at something other than cars.

#### Questions and Comments from Commissioner Wolch

With regard to the discussion of licensing, he would like to require that they have both a Civil and Traffic Engineer license. He views civil as a base and traffic as a specialty. This is not how it has been used in Oregon. The specialty in traffic is available but it is never required for anything. People become licensed as Traffic Engineers and avoid the civil. One can become licensed as a Traffic Engineer in Oregon and go to Washington and get licensed by reserprosity. He would like the City to require both to maintain the quality of the studies.

He did not find anything in the document to define minimum traffic impact analysis requirements in public projects that go through a land use process. An example is Farmington Road that had to go through Beaverton’s process because it entered the City limits. Once that was known, Washington County began to act more as a developer and became very concerned about costs, timelines, and construction season. The issues are the same and should be treated the same. A road project is not more important to him than a commercial development.

He agrees with the 5% impact area. It would broaden the scope. He agrees with inclusion of the a.m. peak hours. The argument he has heard is that the p.m. peak is generally higher and this is generally true but the distribution is different and an intersection has to function for both. Saturday a.m. traffic sometimes needs to be looked at for large commercial developments. He would like the City to have more information available with regard to trip distribution. When the Commission reviews a Comprehensive Plan Amendment, he feels it necessary to require a worse case scenario. Comments in the ITE Manual regarding requirements being different in different jurisdictions is true. He agreed with other Commissioners that he would like to see the City standards equal or exceed the rest of the region.

He asked that consideration be given to requiring different types of reports depending on the ADT, such as possibly only looking at site access and not beyond that until the ADT reached 400 which would include the impact area into the study area. This would tailor the reports so that unnecessary information is not requested.

Attachment D – Page 5-B.1 was pleased to see language with regard to through trips on a residential street. Consultants have commented to him that nobody deals with the neighborhood traffic management issues effectively in their traffic impact studies. Ms. Middleton said these are currently in the TSP implementing amendments.

Page 6 – No. 6 – Requested clarification of the statement. Ms. Middleton said this was a comment from a member of staff who felt this was an appropriate addition. It had to do with making sure it was permitted in the zone. It was felt that the mixing of land uses would reduce some of the trips.

Mr. Wooley said that through the Senate Bill 122 process in which we are trying to establish service boundaries, there is now a draft intergovernmental agreement that is being reviewed. One of the items in the draft suggests that the cities in Washington County and the County work together and develop some uniform standards Countywide. There is a good chance that this will be adopted but it will most likely take a couple years. This pertains to traffic impact analysis standards.

Commissioner Maks requested the Commissioners to indicate whether they prefer a codified or guidance document. Commissioner Johansen, with hesitation, supported a guidance document. He is concerned because he felt that in the past when a guidance document was used, the City has not required enough. The guidelines become discretionary based on the staff in place at the time. Chairman Maks stated that it is a guiding document that has been adopted by the Commission with regard to traffic impact studies. Commissioner Voytilla said in order to put teeth into it, it should be codified. Guidance or recommendations become “iffy”. Chairman Maks said codifying it carries more weight. Currently in Code Review, they are trying to make the Code carry more

weight. Commissioner Johansen reconsidered based on the fact that flexibility is still possible in a codified document. Commissioner Wolch supported a codified document. Guidance documents work when you have someone who wants to work with you but there are others who want to do only the minimum. Commissioner Dunham asked if including more “shalls” than “shoulds” would achieve the same thing without codifying. Chairman Maks asked if the Commission can deny a proposal based on a guidance document. Mr. Naemura said no. It comes on a lack of information based on applicable criteria. Disputes over applicable criteria are best worked out before the 120-day clock starts running. The Commission was unanimous in request for a codified document.

ADJOURNMENT: 10:35 p.m.